

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY JUNE 21, 2007

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 518

Introduced by Senator Migden

February 22, 2007

An act to add Article 1.5 (commencing with Section 224.70) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 518, as amended, Migden. Juveniles: Youth Bill of Rights.

(1) Existing law authorizes a peace officer to take a minor that the officer has reasonable cause to believe is within the jurisdiction of the juvenile court, either as a dependent child or as a ward of the court, into temporary custody without a warrant, as specified. Existing law provides procedures for processing the minor thereafter. Existing law requires the release within 48 hours of a minor who is taken into temporary custody by a peace officer or probation officer, as specified, unless a petition to declare him or her a dependent child or ward of the court has been filed. Existing law requires the juvenile court, upon the appearance of a minor at a detention hearing, to inform the minor, and his or her parents or guardians, of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and their right to representation by counsel.

This bill would enact the “Youth Bill of Rights” in connection with youth confined in a juvenile facility ~~or an adult facility housing youth~~. The bill would enumerate various specific rights. The bill would require every juvenile facility ~~and adult facility~~ to provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights, and would require a juvenile facility to post a listing of the rights. The bill would require all juvenile ~~and adult~~ facilities to provide care, placement, and services to youth in their custody without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. The bill would require the Office of the Ombudspersons of the Division of Juvenile Justice to take various actions in connection with the rights, including disseminating information, investigating complaints, providing information regarding complaints it does not investigate, compiling data and making it available to the Legislature, and providing a toll-free telephone number. ~~The bill would create the Office of Ombudsperson in the Corrections Standards Authority, and would require that office to perform the same responsibilities in connection with youth in local juvenile facilities as those described above for the Office of the Ombudspersons of the Division of Juvenile Justice.~~ The bill would further require the Ombudspersons of the Division of Juvenile Justice, in consultation with specified groups, to develop standardized, age-appropriate information in connection with these rights by July 1, 2008. ~~The bill would require certain state and local employees to be trained on the right of youth in custody to have fair and equal access to all available services, placement, care, treatment, and benefits, as specified. The bill would require the Department of Corrections and Rehabilitation to adopt regulations to implement and monitor compliance with these provisions. The bill would require each juvenile facility to adopt a policy prohibiting harassment and discrimination in conformance with these provisions.~~ By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Youth confined in juvenile facilities ~~or adult facilities~~ are
4 harmed by discrimination based on actual or perceived race, ethnic
5 group identification, ancestry, national origin, color, religion, sex,
6 sexual orientation, gender identity, mental or physical disability,
7 and HIV status.

8 (b) Youth are detained in juvenile facilities, ~~adult facilities, or~~
9 ~~and~~ nonsecure shelter settings pending the filing and resolution of
10 juvenile court cases or pending transfer to other facilities,
11 programs, or placements.

12 (c) Youth are committed to the Division of Juvenile Facilities
13 or other juvenile facilities in order to provide them an opportunity
14 for rehabilitation. These rehabilitation opportunities shall include
15 the provision of educational, therapeutic, and other necessary
16 services to ensure that these youth can become successful and
17 productive members of their communities.

18 (d) All youth confined in juvenile facilities ~~or adult facilities~~
19 have the constitutional right to a safe and secure environment.

20 (e) All Division of Juvenile Facilities and local facilities are
21 committed to treating all people with dignity, respect, and
22 consideration and demonstrating behavior which is fair, honest,
23 and ethical.

24 (f) There is a need to inform youth confined in juvenile ~~or adult~~
25 facilities about their rights ~~and to train officers about their legal~~
26 responsibilities.

27 ~~(g) Initial and ongoing training for juvenile facility officers,~~
28 ~~state juvenile correctional officers and administrators, Corrections~~
29 ~~Standards Authority staff, and juvenile probation officers is crucial~~
30 ~~to enable all persons involved in providing care, rehabilitation,~~
31 ~~and treatment services to children in juvenile facilities to fulfill~~
32 ~~their responsibilities to provide safe and nondiscriminatory~~
33 ~~environments.~~

SEC. 2. Article 1.5 (commencing with Section 224.70) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 1.5. Youth Bill of Rights

224.70. For the purposes of this article:

(a) ~~“Adult facility” means a facility that is operated, or contracted for, by a state or local agency for the purpose of the detention or imprisonment of adults under the jurisdiction of a criminal court.~~

~~(b)~~

(a) “Committed” means placed in a ~~jail or~~ juvenile facility pursuant to a court order, independent of, or in connection with, other sentencing alternatives.

~~(c)~~

(b) “Detained” means held in secure confinement in a juvenile ~~or adult~~ facility pending filing or resolution of a juvenile court case or pending transfer to other facilities, programs, or placements.

~~(d)~~

(c) ~~“Extended family members” mean member~~ “*means* any adult related to the youth by blood, adoption, or marriage, and any adult who has an established familial or mentoring relationship with the youth, including, but not limited to, godparents, clergy, teachers, neighbors, and family friends.

~~(e)~~

(d) “Juvenile facility” means a place of confinement that is operated, or contracted for, by a county or state agency, for the purpose of the detention or commitment of youth who are taken into custody and alleged to be within the description of Section 601 or 602 or *who* are adjudged to be a ward of the court.

~~(f)~~

(e) “Youth” means any of the following:

(1) A person under 18 years of age.

(2) A person over 18 years of age who is under the jurisdiction of the juvenile court.

(3) A person under 18 years of age whose case is in the adult criminal court system as a result of any of the following:

(A) After a finding that he or she is not a fit and proper subject to be dealt with under juvenile court law.

1 (B) After being charged directly in a court of criminal
2 jurisdiction.

3 (C) After being transferred to a court of criminal jurisdiction
4 under Section 707.01 of the Welfare and Institutions Code.

5 224.71. It is the policy of the state that all youth confined in a
6 juvenile facility, ~~or an adult facility housing youth~~, shall have the
7 following rights:

8 (a) To live in a safe, healthy, and clean environment conducive
9 to treatment and rehabilitation and where they are treated with
10 dignity and respect.

11 (b) To be free from physical, sexual, emotional, or other abuse,
12 or corporal punishment.

13 (c) To receive adequate and healthy food and water, sufficient
14 personal hygiene items, and clothing that is adequate and clean.

15 (d) To receive adequate and appropriate medical, dental, vision,
16 and mental health services.

17 (e) To refuse the administration of psychotropic and other
18 medications consistent with applicable law or unless immediately
19 necessary for the preservation of life or the prevention of serious
20 bodily harm.

21 (f) To not be searched for the purpose of harassment or
22 humiliation or as a form of discipline or punishment.

23 (g) To maintain frequent and continuing contact with parents,
24 guardians, siblings, children, and extended family members,
25 through visits, telephone calls, and mail.

26 (h) To make and receive confidential telephone calls, send and
27 receive confidential mail, and have confidential visits with
28 attorneys and their authorized representatives, ombudspersons and
29 other advocates, holders of public office, state and federal court
30 personnel, and legal service organizations.

31 (i) To have fair and equal access to all available services,
32 placement, care, treatment, and benefits, and to not be subjected
33 to discrimination or harassment on the basis of actual or perceived
34 race, ethnic group identification, ancestry, national origin, color,
35 religion, sex, sexual orientation, gender identity, mental or physical
36 disability, or HIV status.

37 (j) To have regular opportunity for age-appropriate physical
38 exercise and recreation, including time spent outdoors.

39 (k) To contact attorneys, ombudspersons and other advocates,
40 and representatives of state or local agencies, regarding conditions

1 of confinement or violations of rights, and to be free from
2 retaliation for making these contacts or complaints.

3 (l) To participate in religious services and activities of their
4 choice.

5 (m) To not be deprived *of* any of the following as a disciplinary
6 measure: food, contact with parents, guardians, or attorneys, sleep,
7 exercise, education, bedding, access to religious services, a daily
8 shower, a drinking fountain, a toilet, medical services, reading
9 material, or the right to send and receive mail.

10 (n) To receive a quality education that complies with state law,
11 to attend age-appropriate school classes and vocational training,
12 and to continue to receive educational services while on
13 disciplinary or medical status.

14 (o) To attend all court hearings pertaining to them.

15 (p) To have counsel and a prompt probable cause hearing when
16 detained on probation or parole violations.

17 (q) To make at least two free telephone calls within an hour
18 after initially being placed in ~~an adult or~~ a juvenile facility
19 following an arrest.

20 224.72. (a) Every juvenile facility ~~and adult facility~~ shall
21 provide each youth who is placed in the facility with an age and
22 developmentally appropriate orientation that includes an
23 explanation and a copy of the rights of the youth, as specified in
24 Section 224.71, and that addresses the youth's questions and
25 concerns.

26 (b) Juvenile facilities shall post a listing of the rights provided
27 by Section 224.71 in a conspicuous location. The Office of the
28 Ombudspersons of the Division of Juvenile Justice shall design
29 posters and provide the posters to each Division of Juvenile
30 Facilities facility subject to this subdivision. The posters in facilities
31 of the Division of Juvenile Facilities shall include the toll-free
32 telephone number of the Office of the Ombudspersons of the
33 Division of Juvenile Justice.

34 224.73. All juvenile facilities ~~and adult facilities~~ shall ensure
35 the safety and dignity of all youth in their care and shall provide
36 care, placement, and services to youth without discriminating on
37 the basis of actual or perceived race, ethnic group identification,
38 ancestry, national origin, color, religion, sex, sexual orientation,
39 gender identity, mental or physical disability, or HIV status.

1 224.74. (a) The Office of the Ombudspersons of the Division
2 of Juvenile Justice shall do all of the following:

3 (1) Disseminate information on the rights of children and youth
4 in the custody of the Division of Juvenile Facilities, as provided
5 in Section 224.71, and the services provided by the office.

6 (2) Investigate and attempt to resolve complaints made by or
7 on behalf of youth in the custody of the Division of Juvenile
8 Facilities, related to their care, placement, or services, or in the
9 alternative, refer appropriate complaints to another agency for
10 investigation.

11 (3) Notify the complainant in writing of the intention to
12 investigate or the decision to refer the complaint to another agency
13 within 15 days of receiving the complaint. If the office declines
14 to investigate a complaint, the office shall notify the complainant
15 of the reason for this decision.

16 (4) Update the complainant on the progress of the investigation
17 and notify the complainant in writing of the final outcome, steps
18 taken during the investigation, basis for the decision, and any action
19 to be taken as a result of the complaint.

20 (5) Document the number, source, origin, location, and nature
21 of complaints.

22 (6) Provide a toll-free telephone number for the Office of the
23 Ombudspersons of the Division of Juvenile Justice.

24 (7) Compile and make available to the Legislature and the public
25 all data collected over the course of the year, including, but not
26 limited to, the number of contacts to the toll-free telephone number,
27 the number of complaints made, the number of investigations
28 performed by the office, the number of referrals made, the issues
29 complained about, the number of sustained complaints, the actions
30 taken as a result of sustained complaints, and the number of
31 unresolved complaints, including the reasons the complaints could
32 not be resolved.

33 ~~(b) There shall be in the Corrections Standards Authority an~~
34 ~~Office of the Ombudsperson responsible for receiving,~~
35 ~~investigating, and responding to complaints by, or on behalf of,~~
36 ~~youth confined in local juvenile facilities regarding violations of~~
37 ~~the rights provided by Section 224.71. With regard to youth~~
38 ~~detained or committed to juvenile facilities administered by county~~
39 ~~agencies, or under contract with county agencies to provide~~
40 ~~detention or rehabilitation services, the Office of the Ombudsperson~~

~~in the Corrections Standards Authority shall have the same responsibilities to disseminate information and investigate and resolve complaints as the Office of the Ombudspersons of the Division of Juvenile Justice pursuant to this section.~~

~~(e)~~

~~(b) (1) The Office of the Ombudspersons of the Division of Juvenile Justice, in consultation with the Chief Probation Officers of California, youth advocate and support groups, and groups representing children, families, children's facilities, and other interested parties, shall develop, no later than July 1, 2008, standardized information explaining the rights specified in Section 224.71. The information developed shall be age-appropriate.~~

~~(2) The Office of the Ombudspersons of the Division of Juvenile Justice, the counties, and other interested parties may use the information developed in paragraph (1) in carrying out their responsibilities to inform youth of their rights provided under Section 224.71.~~

~~224.75. All state juvenile correctional officers and administrators, staff of the Correctional Standards Authority, and juvenile facility officers and probation officers who have regular contact with confined youth, shall receive initial and ongoing training on the rights of youth in juvenile facilities to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.~~

~~224.76. (a) The Department of Corrections and Rehabilitation shall adopt regulations to implement and monitor compliance with this article.~~

~~(b) Each juvenile facility shall adopt a policy prohibiting harassment and discrimination in conformance with this article.~~

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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2 **CORRECTIONS:**
3 **Text—Page 4.**
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